

FALKIRK COUNCIL

Subject: **ERECTION OF 3 DWELLINGHOUSES WITH DETACHED DOMESTIC GARAGES AT LAND TO THE SOUTH EAST OF BYWAYS, GLEN ROAD, TORWOOD FOR ROY MITCHELL DESIGN LTD – P/11/0797/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **4 April 2012**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Ward - Bonnybridge and Larbert**
Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: **Larbert, Stenhousemuir and Torwood**

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the Planning Committee on 7 March 2012 (copy of previous report appended), where it was agreed to continue the application for a site visit. This visit took place on 19 March 2012.
2. At the site meeting the Development Manager summarised the case officer's report and the applicant and a supporter spoke in support of the planning application. The applicant offered details in relation to recent planning decisions taken that are of a similar nature insofar as they were outwith but adjoining the settlement boundary for Torwood.
3. Several local residents, including a representative from Larbert, Stenhousemuir and Torwood Community Council, spoke in opposition to the proposal covering the issues of site access and road safety, woodland loss, housing supply and the need for a further site visit.
4. Councillor Coleman, as local Member, also spoke in opposition to the application stating that the site is not a 'gap' or 'infill' site and that it is contrary to the Development Plan.
5. The Roads Development officer in attendance confirmed that the proposal, in terms of its site access and egress would not exacerbate existing road safety matters and, in particular, the issue of speeding in the village would not justify refusal.

6. Members of the Planning Committee sought clarification of the felling licence protocol with regard to woodland loss. The woodland loss being proposed does not have a detrimental impact upon the amenity or character of this location to justify refusal on the grounds of woodland loss. A number of trees are being retained. The issue of the woodland felling licence protocol is not a planning matter in respect of the consideration of this particular planning application. At the time of writing this report the details of the felling licence protocol are not available but this will be updated verbally at Planning Committee.
7. The issue of housing supply (i.e. the need for further housing in the village given that a number of houses are already up for sale) is not a material planning consideration.
8. No matters were raised which would amend the original recommendation to refuse planning permission.

9. RECOMMENDATION

9.1 It is therefore recommended that the Planning Committee refuse planning permission for the following reason(s):-

- (1) The proposal is considered contrary to Falkirk Council Structure Plan Policy ENV.1 'Countryside and Protected Areas' and Falkirk Local Plan Policies EQ19 'Countryside' and SC3 'Housing Development in the Countryside' and SC8 'Infill Development and Subdivision of Plots' as the proposed development does not require a Countryside location and the site does not constitute an appropriate infill or gap site.

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Director of Development Services

Date: 27 March 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. P/09/0525/FUL
4. P/08/0379/FUL
5. F/2002/0881.
6. F/2002/0882.
7. F/2002/0846
8. Letter of Objection from Mr & Mrs John & Elaine Bell, Netherlee, Glen Road, Torwood, Larbert, FK5 4SN on 1 February 2012.
9. Letter of Objection from Mr Gordon Millar on 31 January 2012.
10. Letter of Objection from Mr Ahndi Gardiner, 1 Forrester Gait, Torwood, Larbert, FK5 4TB on 16 January 2012.
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18. Letter of Support from Michael Block, Aonach-Mor, Glen Road, Torwood, Larbert, FK5 4SN on 9 February 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

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Meeting: PLANNING COMMITTEE

Date: 7 March 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert
Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site comprises an area of land, previously in forestry use, which is located on the south side of Glen Road, Torwood.
- 1.2 The site is located between the existing dwellings, known as Aonach-Mar and Byways.
- 1.3 The applicant proposes to erect 3 no. dwellinghouses, each of 1½ storey in height, over the 1.02 hectares site. The dwellinghouses are envisaged to have ‘work from home’ capabilities and incorporate a degree of office accommodation in each unit.
- 1.4 Each dwellinghouse is of a traditional design and character, with individual detached garages served by driveways to Glen Road.
- 1.5 The applicant has submitted a supporting planning statement, contending that the proposed development:-
 - Represents the infill of a gap site,
 - Would retain significant groups of trees,
 - Would introduce housing of a high standard of design,
 - Would reflect the linear development along Glen Road, and
 - Complies with Development Plan policies.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been referred to Planning Committee at the request of Councillor Blackwood.

3. SITE HISTORY

- 3.1 Planning application ref: P/09/0525/FUL – erection of 5 dwellinghouses – was refused on 5 November 2009. The refusal was subject to appeal and subsequently dismissed on 17 February 2010.
- 3.2 Planning application ref: P/08/0379/FUL – erection of 5 dwellinghouses was refused on 26 May 2008.
- 3.3 Planning application ref: F/2002/0846 was refused planning permission on 18 February 2003 for the provision of an access and a hardstanding/turning area in connection with timber extraction operations, this being the same site as that covered by F/2002/0881 and F/2002/0882. The reasons for refusal related to the lack of justification and contravention of Local Plan Policy.
- 3.4 Planning application ref: F/2002/0882 was refused planning permission on 17 January 2003 for the erection of a dwellinghouse on a site approximately half the width of the current application site and extending significantly more to the rear.
- 3.5 Planning application ref; F/2002/0881 was refused planning permission on 17 January 2003 for the erection of a dwellinghouse on a site approximately half the width of the application site and extending significantly more to the rear.

4. CONSULTATIONS

- 4.1 Falkirk Council's Keeper of Archaeology and Local History has no objections to the application.
- 4.2 In line with standing advice, there are no site specific issues which require consultation with the Scottish Environment Protection Agency.
- 4.3 The Environmental Protection Unit advises that there has historically been potentially contaminative activity within 250 metres of the application site. If planning permission were to be approved, planning conditions addressing potential land contamination are requested, along with an informative regarding noisy working.
- 4.4 Falkirk Council's Education Services do not request any financial contribution if permission were to be granted.
- 4.5 In line with standard advice, there are no site specific issues which require a response from Scottish Natural Heritage.

- 4.6 Falkirk Council's Roads and Development Unit request that, should planning permission be granted, suspensive planning conditions be imposed addressing road geometry, drainage ditch arrangements, road culvert details and SUDs arrangements.

5. COMMUNITY COUNCIL

- 5.1 Larbert, Stenhousemuir and Torwood Community Council objects to the application, commenting that:-

- The site has been subject to previous planning refusals, including the dismissal of a planning appeal, and the reasons for rejection remain valid at this time.
- The application site is outwith the village limit as defined in the Local Plan and does not merit the essential need requirement for new housing in the countryside.
- Torwood has very basic services and infrastructure constraints; the development would add to ongoing creeping development and constraint issues.
- The application site is not a 'gap' or 'infill' site.
- The development would encroach on existing woodland, all to the detriment of the setting of Torwood.

6. PUBLIC REPRESENTATION

- 6.1 7 individual letters of objection have been received commenting that:-

- The application site has been subject to previous refusals of planning permission, including an appeal which was dismissed.
- The proposed 'work from home' facilities are large, suggesting a commercial operation.
- There is no housing need in the area, with houses adjacent the application site currently for sale.
- The strategic importance of woodland areas as greenspace cannot be exaggerated.
- The application is identical to previously refused proposals, except the number of houses has been reduced to 3.
- The tree survey is out of date and does not reflect conditions on site.

In addition,

- Torwood Community Woodland Group object to the application, in similar terms to the above comments and reiterating the need for Torwood's woodland setting to remain intact for wildlife and amenity. The group submits that the applicant's tree survey is out of date and the site has started to naturally regenerate.

6.2 3 individual letters of support have been received, commenting that:-

- The proposed development would substantially improve the existing site and bring a much improved appearance to Glen Road.
- The proposed development would sit well within its surroundings.
- The housing would not be detrimental to the village and would complete this natural gap site along the frontage of Glen Road.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy ENV.1 ‘Countryside and Protected Areas’ states:

- “(1) *There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) *The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

7a.2 A countryside location is not considered essential for the proposed development, nor is the proposal a form of agricultural diversification.

7a.3 The proposal, therefore, does not accord with the Falkirk Council Structure Plan.

Falkirk Council Local Plan

7a.4 Policy EQ19 - ‘Countryside’ states:

- “(1) *The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*
- *it can be demonstrated that they require a countryside location;*
 - *they constitute appropriate infill development; or*

- *they utilise suitable existing buildings.*
- (2) *In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*
- *the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
 - *building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
 - *boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species."*
 -

7a.5 This policy provides for a general presumption against development in the countryside, unless the specified criteria can be met. In this instance, the application site is not considered appropriate infill development, would not utilise existing buildings nor does the housing require a countryside location.

7a.6 Policy SC3 - 'Housing Development In The Countryside' states:

"Housing development in the countryside will only be permitted in the following circumstances:

- (1) *Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:*
- *The operational need for the additional house in association with the business*
 - *That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
 - *That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
 - *That the business as a whole is capable of providing the main source of income for the occupant;*
- (2) *Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where*
- *The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
 - *The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*
 - *The restored or converted building is of comparable scale and character to the original building*
 - *In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*
- (3) *Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8."*

- 7a.7 With respect to this policy, the proposal could only be considered acceptable if it were to comply with part (3). The road frontage is approximately 105 metres in length and the site area 1.02ha. It is therefore debatable that such a large area could be considered a gap site or infill opportunity, in the context of its setting.
- 7a.8 In the appeal decision of 2010, the Reporter was ‘not persuaded that it can be described or suitable for infill development’, as well as taking the view that the site was not within the envelope of an existing group of residential buildings and the development would result in ribbon development.
- 7a.9 Given that the application site remains the same, albeit with the number of dwellings reduced to 3, it is considered that the above appeal decision is a persuasive material consideration.
- 7a.10 Policy SC8 ‘Infill Development and Subdivision of Plots’ states:

“Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) the proposal complies with other Local Plan policies.”*

- 7a.11 The applicant contends that the site represents an infill opportunity. It is considered by officers (aided by the interpretation offered by Scottish Ministers following a recent appeal decision) that the site cannot be considered such, given the detachment of the site from the village envelope and the distances between the nearest neighbouring dwellinghouses.
- 7a.12 Policy EQ26 - ‘Trees, Woodland And Hedgerows’ states:

“The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:

- (1) Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*

- (5) *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character."*

- 7a.13 The application site, and much of the woodland surrounding Torwood, is listed in the Inventory of Ancient, Long Established and Semi-Natural Woodland as a site of 'long established woodland of plantation origin', although the application site does not contain ancient trees.
- 7a.14 Development of houses on the site would result in the loss of approximately 48 trees for the access points to the road, for gardens and for the house footprints. The overall landscape effects would be a detrimental loss of woodland character into a built character, due to the loss of trees and the introduction of buildings. On the other hand in terms of visual effects alone, as seen from Glen Road, the proposed layout would be reasonably visually screened by carefully retained tree cover along the road frontage and around the boundaries with the proposed dwellings set well back from the road. It is considered that, on balance, the proposed does not offend his policy.
- 7a.15 Accordingly, the proposal does not accord with the Development Plan.

7b Material Considerations

- 7b.1 Matters relating to the material consideration of the application are Scottish Planning Policy, site history, points raised by consultees and points raised by objectors and supporters.

Scottish Planning Policy

- 7b.2 Scottish Planning Policy advocates that Development Plans should support more opportunities for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing and new build linked to rural businesses or would support the formation of new businesses by providing funding. The development of the site a proposed is not supported by the Development Plan.

Points Raised by Consultees

- 7b.3 There are no issues arising – including potential landscaping proposals and tree retention – which could not be addressed through the imposition of planning conditions if planning permission were to be approved.

Points Raised by Objectors

- 7b.4 It is considered that the tree survey information relating to the application site is now outdated, although the applicant is committed to provide supplementary landscaping across the developed area.
- 7b.5 The necessity of the dwellings in terms of housing need has not been examined beyond comment of the suitability of the proposals within a rural location.
- 7b.6 All other points raised are acknowledged.

Points Raised by Supporters

7b.7 These points are noted, but the consideration of the acceptability of the site for development purposes are fully considered within part 7a of the report.

7c Conclusion

7c.1 The proposal is located in designated countryside, albeit adjacent to Torwood village, where there is a policy presumption against development unless exceptional circumstances can be established.

7c.2 In this instance, the live/work aspect of the application is noted but does not fulfill the essential criteria nor is the application site considered an infill opportunity taking into account the provisions of the Development Plan and given the rejection of this definition by Scottish Ministers through the previous appeal decision.

7c.3 The cumulative loss of trees to accommodate development in a location which forms part of the wider woodland setting of Torwood would, arguably, result in a detrimental loss of woodland character however not to the extent that refusal of the application on these grounds would be justified.

7c.4 The applicant's contention that the site is a suitable 'gap' or 'infill' opportunity is not supported.

8. RECOMMENDATION

8.1 It is therefore recommended that the Planning Committee refuse planning permission for the following reason(s):-

- (1) The proposal is considered contrary to Falkirk Council Structure Plan Policy ENV.1 'Countryside and Protected Areas' and Falkirk Local Plan Policies EQ19 'Countryside' and SC3 'Housing Development in the Countryside' and SC8 'Infill Development and Subdivision of Plots' as the proposed development does not require a Countryside location and the site does not constitute an appropriate infill or gap site.

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Director of Development Services

Date: 28 February 2012

LIST OF BACKGROUND PAPERS

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Planning Committee

Planning Application Location Plan

P/11/0797/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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